IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1187 (M/S) of 2001
(Old No. 3391/2000)

1. The Executive Engineer, Electricity,
   Distribution Division, U.P. State Electricity,
   Board, Haridwar.
2. The Secretary,
   U.P. State Electricity Board 14, Ashok Marg,
   Shakti Bhawan, Lucknow.
3. The superintending Engineer, U.P. State,
   Electricity Board, Electricity Distribution,
   Circle, Roorkee.
4. The Chief Engineer,
   U.P. State Electricity Board,
   Meerut Region, Victoria Park,
   Meerut. .....Petitioners

Vs

1. The Presiding officer, Labour Court, Dehradun.
2. Manohar Lal S/o Sri Daulat Ram.
3. Ram Kumar S/o Sri Hari Ram.
4. Sukhpal Sharma S/o Sri Chet Ram Sharma.
5. Asghar Ali S/o Sri Mangta Khan.
6. Ram Lal S/o Sri Kripa Ram.
7. Ram kishrore S/o Sri Nanu Ram.
8. Ram Pal Singh Malik S/o Ajab Singh.
   Respondents No.2 to 8 are all C/o Hydro Electric
   Employee Union Office, 20 Shivaji Marg, Lucknow.

.....Respondents

Sri B.D. Upadhaya learned counsel for the petitioner.
Sri Alok Singh learned senior advocate assisted by
Sri D. Barthwal learned counsel for the respondent Nos. 2 to 8.
Sri R.C. Arya learned standing counsel for the respondent No.1.

Dated: 8th September 2006.

Hon'ble B.S. Verma, J.

Heard Sri B.D. Upadhaya learned counsel for the petitioner, Sri Alok Singh learned senior advocate assisted by Sri D. Barthwal learned counsel for the respondent Nos. 2 to 8 and Sri R.C. Arya learned standing counsel for the respondent No.1

2. This writ petition has been filed by the petitioner seeking a writ of certiorari quashing the order dated 05-10-1999 passed by the Presiding Officer, Labour Court, Dehradun-respondent No.1 in Misc. Case No.45 of 1990 Manohar Lal and others Vs. Executive Engineer, Electricity Distribution Division, Haridwar (Annexure-7 to the writ petition).

3. Brief facts of the case are that the respondent Nos. 2 to 8 were appointed with the petitioners on the post of Meter Reader and they were working as Meter Reader under the petitioner. The respondents No. 2 to 8 claimed for salary for the period of 8.6.1994 to 8.9.1995 on the ground that he medical leave had been sanctioned to them for the said period and thus they were entitled for payment of salary for the said period. The petitioners have denied the claim of the respondent Nos. 2 to 8 and it was stated that no medical leave was sanctioned to the respondents No. 2 to 8 since they were absent during the above mentioned period, no salary was to be paid to them on the basis of principle " No work no pay".

4. The background of case is that due to the change of posts and consequent transfer of the respondents to new places and posts, the controversy arose that the above-mentioned period was taken by the petitioners as unauthorized absence because respondents No.2 to 8 did not join their new places and posts. Before the labour Court, the respondents had filed orders dated 30-11-1998 and 18-12-1998 passed by the Executive Engineer- petitioner No.1 by which the respondent Nos. 2 to 8 were sanctioned medical leave due against them and treated the remaining days as earned leave. The learned labour Court had held that the order gave an entitlement to these workmen respondent Nos. 2 to 8 to get their salary for the said period and it became their existing and predetermined right, which was also recognized by the employers. As such there is no force in the contention of the petitioners that these workmen remained absent during the period in an unauthorized manner. The contention raised by the petitioners is that the leave was not sanctioned to these workmen is also misconceived. By the order dated 27-7-1996 passed by the Executive Engineer, the respondent Nos. 2 to 8 were denied wages for the period of their absence on the principle of " No work No pay".

5. Learned Tribunal has further held that the order dated 27-7-1996 has became meaningless in view of the subsequent orders of the Executive Engineer dated 30-11-1998 and 18-12-1998 by which medical leave and earned leave was sanctioned to these workmen-respondent Nos. 2 to 8.

6. Learned labour Court has also made the reference of judgment of High Court of Allahabad upholding the order of labour Court under Section 33(C) (2) vide judgment and order dated 1-2-1999 in Civil W.P. No.37977 of 1997 (UPSEB Vs. Ram Singh). The claim of the respondent Nos. 2 to 8 was based on the circular dated 27-10-1998 in which it was stated that earned leave can be sanctioned only to those meter readers who had joined on the posts of Sub station operators.

7. The contention of the learned counsel for the petitioner is that the leave was not sanctioned to respondent No.2 to 8 became meaningless after sanction of leave by the petitioner No.1.

8. The principal of " No work No Pay" could not be applied in the case of the respondent Nos. 2 to 8, when the medical leave and earned leave had already been sanctioned. I am in full agreement with the view taken by the learned labour Court. Accordingly the grounds raised by the petitioners are misconceived and are hereby rejected.

9. In view of the above discussions, the impugned order dated 5.10.1999 does not suffer any infirmity or illegality. The writ petition is devoid of merit and is dismissed accordingly. No order as to costs.

(B.S. Verma,J)

Dated: - 8th September 2006
M.K.